IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1877 OF 1997

Smt.Sheila Ganpat Keshatwar..... .....
Petitioner
V/s
The State of Maharashtra & Ors..... .....
Respondents.

Mr.A.M.Joshi, Adv. for the petitioner.

Mr.S.K.Chincholikar, AGP for respondent Nos. 1 and 2.

CORAM: A.P. DESHPANDE, J.
12.6.2007

ORAL JUDGMENT:

The petitioner was possessing qualification of M.Com., M.Ed. and was thus eligible for being appointed as a lecturer in Commerce in Minimum Competency Vocational Course. Pursuant to an advertisement issued by the respondent in August, 1992 the petitioner applied for the post of lecturer in accounts and audit. The petitioner came to be appointed as a lecturer in September, 1992 and has been terminated at the end of academic session 1992-93. It is the case of the respondent-institution that as permission to start the course was received belatedly in the month of August/September, 1992 they did not have any time to make regular appointment, as the roaster could not be hurriedly prepared and got approved from the B.C. Cell, hence the petitioner was appointed temporarily for one academic session. Whereas the case of the petitioner is that her signature was obtained in token of

having received the appointment order but as a matter of fact no appointment order was issued to the petitioner. It is undisputed fact that at the end of academic session 1992-93 the respondent issued an advertisement advertising post wherein the present petitioner was appointed for academic session 1992-93 and the petitioner did apply pursuant to the said advertisement issue i the month of May, 1993. The petitioner did not succeed in the process and was not selected which prompted the petitioner to file an appeal at the later point of time questioning legality and validity of the order of termination. The Deputy Director of Vocational Education has approved the appointment of the petitioner only till the end of academic session 1992-93. It is undisputed that the petitioner has hardly worked for a period of 7/8 months and stood terminated thereafter. According to the petitioner she had paid the donation in the sum of Rs.20,000/- and despite the same petitioner was not continued in service. On these facts the Tribunal was called upon to examine the legality and validity of the termination. The Tribunal has recorded a finding of fact that the appointment of the petitioner was only for one academic session and temporary in nature. For recording the said findings of fact the Tribunal has relied upon two circumstances viz; (i) that the approval was granted on temporary basis only for one academic sessions 1992-93 and (ii) that the petitioner herself had applied pursuant to the advertisement issued in May, 1993 which goes to clearly indicate that the petitioner was aware of termination of her service at the end of academic sessions 1992-93. Having held that the petitioner was appointed temporarily the Tribunal has proceeded to dismiss the appeal. Aggrieved thereby this

petition has been instituted. Learned counsel for the petitioner submits that the first advertisement issued by the respondent did not specify as to which of the posts are reserved for backward class candidate. General note is appended to the advertisement inviting application for these posts that reservation shall be effected in accordance with rules framed by Government. He further submits that the petitioner was not served with appointment order and in fact acknowledgment was obtained on blank paper of having served appointment order on the petitioner. Learned counsel for the petitioner is not in position to explain as to how come the petitioner has applied for the said post when it came to be advertised in May, 1993. It is thus obvious that the petitioner being aware of the fact that her appointment has come to an end, from the end of academic sessions 1992-93 the petitioner applied for the said post. It is only when the petitioner was rejected in the process of selection that she felt aggrieved and filed an appeal. I am in agreement with the view taken by the School Tribunal that the appointment of the petitioner was made only for one academic session temporarily, awaiting preparation and approval of the roaster by the appropriate authority which alone could facilitate making of substantive appointments on regular basis. Perused the judgment and order passed by the Tribunal. I do not find any illegality committed in findings recorded by the Tribunal that the appointment of the petitioner was temporary appointment for one year and thus the petitioner had not acquired any right qua the post in question. Thus discontinuance of the petitioner at the end of academic session 1992-93 cannot be faulted. In the result there being no

merit in the petition, same is dismissed. Rule discharged with no order as to costs.

12.6.07.